LOS/PCN/WP.47/Rev.2
28 July 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY AND
FOR THE INTERNATIONAL TRIBUNAL FOR
THE LAW OF THE SEA
New York, 10-21 August 1992

FINAL DRAFT AGREEMENT BETWEEN THE INTERNATIONAL SEABED AUTHORITY AND THE GOVERNMENT OF JAMAICA REGARDING THE HEADQUARTERS OF THE INTERNATIONAL SEABED AUTHORITY

Working paper by the Secretariat

The International Seabed Authority and the Government of Jamaica,*

Having regard to the United Nations Convention on the Law of the Sea of 10 December 1982, which establishes the International Seabed Authority; 1/

Taking into account the provisions of article 156, paragraph 4, of the Convention, that provides that the seat of the International Seabed Authority shall be in Jamaica;

Recognizing the need to ensure the availability of all necessary facilities to enable the International Seabed Authority to perform its functions as required by the Convention;

Desiring to conclude an agreement for the purpose of regulating, in accordance with the Convention, questions relating to the establishment and functioning of the International Seabed Authority in Jamaica;

Have agreed as follows:

---

* Articles or parts thereof indicated by asterisks have been provisionaly adopted.

1/ Jamaica ratified the United Nations Convention on the Law of the Sea on 21 March 1983.

Article 1*

Use of terms

For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "Authority" means the International Seabed Authority as defined in the Convention;

(c) "States Parties" has the same meaning as defined in article 1 of the Convention;

(d) "Government" means the Government of Jamaica;

(e) "competent authorities" means such government, municipal or other authorities in Jamaica as may be appropriate in the context and in accordance with the laws applicable in Jamaica;

(f) "Headquarters" means:

(i) the area, defined in annex I to this Agreement, with the building or buildings upon it; and

(ii) any other land, buildings or part of buildings which may be included therein by supplementary agreement between the Authority and the Government;

(g) "Secretary-General" means the Secretary-General of the International Seabed Authority or his authorized representative;

(h) "laws of Jamaica" means the Constitution of Jamaica, statute law and regulations made pursuant to statutes and includes common law;

(i) "representatives of States Parties" means delegates, deputy delegates, advisers and any other accredited members of delegations;

(j) "officials of the Authority" means the Secretary-General and all members of the staff of the Authority, except those who are locally recruited and assigned to hourly rates;

(k) "Enterprise" means the organ of the Authority as provided for in the Convention;

(l) "Director-General" means the Director-General of the Enterprise;

(m) "observers of the Authority" means States and intergovernmental and non-governmental organizations which enjoy such status with the Authority;

(n) "observer State" means a State which enjoys observer status with the Authority;

(o) "representatives of observer States" means delegates, deputy delegates, advisers and any other accredited members of delegations;

(p) "domestic staff" means the persons employed exclusively in the domestic service of the representatives of States Parties, of the representatives of observers of the Authority and the officials of the Authority;

(q) "experts" means experts performing missions for the Authority;

(r) "permanent mission" means a mission of permanent character, representing a State Party;

(s) "permanent observer mission" means a mission of permanent character, representing an observer State;

(t) "members of the permanent mission" or "members of the permanent observer mission" means the head of the mission and the members of the staff;

(u) "Protocol" means the Protocol on the Privileges and Immunities of the Authority;

(v) "archives" includes records and correspondence, documents, manuscripts, maps, still and moving pictures, films and sound recordings belonging to or held by the Authority in Jamaica.

Article 2*

The seat of the Authority

1. The seat of the Authority shall be in Jamaica.

2. Jamaica grants to the Authority, and the Authority accepts from Jamaica, for the permanent use and occupation by the Authority the area as defined in the annex to this Agreement and such other facilities on such terms and conditions as specified in supplementary agreements.

3. The Headquarters shall not be removed, either temporarily or permanently, from the area defined in the annex to this Agreement to any other place in Jamaica unless the Authority, with the agreement of the Government, so decides.

4. Any building or buildings outside the Headquarters which may be temporarily used with the concurrence of the Government for meetings convened by the Authority shall be considered as included in the Headquarters.

Article 3*

Legal personality and capacity of the Authority

The Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes in accordance with the Convention; consequently it has, in particular, the capacity: 2/

(a) To contract;

(b) To acquire and dispose of immovable and movable property; and

(c) To be a party to legal proceedings.

Article 4*

Law and authority in the Headquarters

1. The Headquarters shall be under the authority and control of the Authority in accordance with this Agreement.

2. The Authority shall have the power to adopt regulations, operative within the Headquarters, for the purpose of establishing therein the conditions in all respects necessary for the full and independent exercise of its functions.

3. The Authority shall promptly inform the Government of regulations adopted by it in accordance with paragraph 2.

4. Except as otherwise provided in this Agreement and subject to the provisions of paragraphs 2 and 5, the laws of Jamaica shall apply in the Headquarters.

5. No law of Jamaica which is inconsistent with a regulation of the Authority authorized by paragraph 2 shall, to the extent of such inconsistency, be applicable in the Headquarters.

6. Any dispute between the Authority and Jamaica as to whether a regulation of the Authority is authorized by paragraph 2, or as to whether a law of Jamaica is inconsistent with any regulation of the Authority authorized by paragraph 2, shall be promptly settled by the procedure set out in article 49. Pending such settlement, the regulation of the Authority shall apply and the law of Jamaica shall be inapplicable in the Headquarters to the extent that the Authority claims it to be inconsistent with the regulation of the Authority.

2/ Article 176.

7. Except as otherwise provided in this Agreement, the courts of Jamaica or other competent authorities shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the Headquarters.

8. The courts of Jamaica or other competent authorities, when dealing with cases arising out of or relating to acts done or transactions taking place in the Headquarters, shall take into account the regulations adopted by the Authority under paragraph 2.

9. The Authority may expel or exclude persons from the Headquarters for violation of its regulations adopted under this article, or for any other proper cause.

10. Without prejudice to the provisions of this article, the regulations of the competent authorities relating to fire protection and sanitation shall be respected.

Article 5*

Inviolability of the Headquarters

1. The Headquarters shall be inviolable. No officer or official of Jamaica, or other person exercising any public authority within Jamaica, shall enter the Headquarters to perform any duties therein except with the express consent of, or at the request of, the Secretary-General, and under conditions approved by him.

2. The service of legal process, including the seizure of private property, shall not take place within the Headquarters except with the express consent of, and under conditions approved by, the Secretary-General.

3. Without prejudice to the provisions of this Agreement, the Authority shall prevent the Headquarters from being used as a refuge from justice by persons who are avoiding arrest under any law of Jamaica, or who are required by the Government for extradition, expulsion or deportation to another country, or who are endeavouring to avoid service of legal process.

4. In case of fire or other emergency requiring prompt protective action or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred, the consent of the Secretary-General to entry of the Headquarters by the competent authorities shall be presumed if the Secretary-General cannot be reached in time. Every effort shall be made to seek such consent.

5. Subject to paragraphs 1 and 2, nothing in this article shall preclude the official delivery by the postal service of Jamaica of letters and documents to the Headquarters.

Article 6*

Protection of the Headquarters

1. The competent authorities shall exercise due diligence to ensure that the tranquillity of the Headquarters and free access thereto are not disturbed by the unauthorized entry of any person or group of persons from outside or by disturbances in its immediate vicinity, and shall provide the Headquarters with such appropriate protection as may be required.

2. If so requested by the Secretary-General, the competent authorities shall provide a sufficient number of police for the preservation of law and order in the Headquarters, and for the removal therefrom of persons as requested.

3. The competent authorities shall take all necessary measures to ensure that the Authority shall not be dispossessed of all or any part of the Headquarters without the express consent of the Authority.

Article 7*

Vicinity of the Headquarters

1. The competent authorities shall take all necessary steps to ensure that the amenities of the Headquarters are not prejudiced and that the purposes for which the Headquarters is intended are not obstructed by the use made of the land and buildings in the vicinity of the Headquarters.

2. The Authority shall take all necessary steps to ensure that the Headquarters is not used for other purposes than those for which it is intended and ensure that the land and buildings in its vicinity are not unreasonably obstructed.

Article 8*

Flag and emblem

The Authority shall be entitled to display its flag and emblem in the Headquarters and on vehicles used for official purposes.

Article 9*

Public services in the Headquarters

1. The competent authorities shall do their utmost to ensure that the Authority shall be provided, on fair and equitable terms but in any case not less favourable than those accorded to the agencies of the Government, with

necessary utilities and public services, including but not limited to electricity, water, gas, sewerage, collection of waste, fire protection and local transportation.

2. In case of any interruption or threatened interruption of any such services, the competent authorities shall consider the needs of the Authority as being of equal importance with those of essential agencies of the Government, and shall take steps accordingly to ensure that the work of the Authority is not prejudiced.

3. Upon the request of the competent authorities, the Secretary-General shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the Headquarters under conditions which shall not unreasonably disturb the carrying out of the functions of the Authority.

4. In cases where gas, electricity or water is supplied by the competent authorities, or where the prices thereof are under their control, the Authority shall be supplied at rates which shall not exceed the lowest comparable rates accorded to the agencies of the Government.

5. The Government shall do its utmost to ensure that the Authority is provided at all times with gasoline or other fuels and lubricating oils for each automobile operated by the Authority on terms and conditions as may be established for diplomatic missions in Jamaica.

Article 10*

Communications facilities

1. For the purposes of its official communications, the Authority shall enjoy as far as is compatible with international agreements, regulations and arrangements to which Jamaica is a party treatment at least as favourable as that which is accorded to diplomatic missions in Jamaica and to international organizations in the matter, inter alia, of priorities, rates and taxes applicable to mail and different forms of telecommunications.

2. The competent authorities shall secure the inviolability of all communications and correspondence directed to the Authority, or to any of the officials of the Authority in the Headquarters, as well as all outgoing communications and correspondence of the Authority, by whatever means or in whatever form transmitted, and they shall be immune from censorship and from any other form of interception or interference with their privacy. Such inviolability shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound or videotape recordings dispatched to or by the Authority.

3. The Authority shall have the right to use codes and to dispatch and receive its correspondence and other materials by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

4. (a) The Authority may establish and operate at the Headquarters:

(i) Its own short-wave sending and receiving radio broadcasting facilities, including emergency link equipment which may be used on the same frequencies, within the tolerances prescribed for the broadcasting service by applicable Jamaican regulations, for radiotelegraph, radiotelephone and similar services;

(ii) Such other radio facilities as may be specified by supplementary agreement between the Authority and the competent authorities;

(b) The Authority shall make arrangements for the operation of the services referred to in this paragraph with the International Telecommunication Union, the appropriate agencies of the Government and the appropriate agencies of other affected Governments with regard to all frequencies and similar matters.

5. The facilities provided for in paragraph 4 may, to the extent necessary for efficient operation, be established and operated outside the Headquarters with the consent of the Government.

6. If so requested by the Secretary-General, the competent authorities shall provide for the official purposes of the Authority appropriate radio and other telecommunication facilities in conformity with the regulations of the International Telecommunication Union. These facilities may be specified by supplementary agreement between the Authority and the competent authorities.

Article 11*

Freedom of publication and broadcasting

The Government recognizes the right of the Authority freely to publish and broadcast within Jamaica in the fulfilment of its purposes set out in the Convention. It is, however, understood that the Authority shall respect any laws of Jamaica or any international agreements to which Jamaica is a party, relating to publications and broadcasting.

Article 12*

Freedom of assembly

1. The Government recognizes the right of the Authority to convene meetings within the Headquarters or, with the concurrence of the Government, elsewhere in Jamaica.

/...

2. To ensure full freedom of assembly and discussion, Jamaica shall take all proper steps to guarantee that no impediment is placed in the way of conducting the proceedings of any meeting convened by the Authority.

Article 13*

Inviolability of archives

1. The archives of the Authority, wherever located, shall be inviolable. 3/

2. The location of the archives of the Authority shall be made known to the competent authorities if it is at a place other than in the Headquarters.

Article 14*

Immunity and exemptions of the Authority, its property and assets

1. The Authority, its property and assets shall enjoy immunity from legal process except to the extent that the Authority expressly waives this immunity in a particular case. 4/

2. The property and assets of the Authority, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action. 5/

3. The property and assets of the Authority shall be exempt from restrictions, regulations, controls and moratoria of any nature. 6/

Article 15*

Exemption from taxes and customs duties

1. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorized by the Convention, shall be exempt from all direct taxation, and goods imported

---

3/ Article 181 (1).

4/ Article 178.

5/ Article 179.

6/ Article 180.

or exported for its official use shall be exempt from all customs duties. The Authority shall not claim exemption from taxes, which are no more than charges for services rendered. 7/

2. When purchases of goods or services of substantial value necessary for the official activities of the Authority are made by or on behalf of the Authority, and when the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by the Government to grant exemption from such taxes or duties or provide for their reimbursement. With respect to such taxes or duties, the Authority shall at all times enjoy at least the same exemptions as are granted to the heads of diplomatic missions in Jamaica.

3. Goods imported or purchased under an exemption provided for in this article shall not be sold or otherwise disposed of in the territory of Jamaica, except under conditions agreed with the Government. 8/

Article 16*

Financial facilities

1. Without being subject to any financial controls, regulations or moratoria of any kind, the Authority may freely:

(a) Purchase any currencies through authorized channels and hold and dispose of them;

(b) Operate accounts in any currencies;

(c) Purchase through authorized channels, hold and dispose of funds, securities and gold;

(d) Transfer its funds, securities, gold and foreign currencies to or from Jamaica, to or from any other country, or within Jamaica; and

(e) Raise funds through the exercise of its borrowing power or in any other manner which it deems desirable, except that with respect to the raising of funds within Jamaica, the Authority shall obtain the concurrence of the Government.

2. The Government shall employ its best endeavours to enable the Authority to obtain the most favourable conditions as regards exchange rates, banking commissions in exchange transactions and the like.

7/ Article 183 (1).

8/ Article 183 (2).

3. The Authority shall, in exercising its rights under this article, pay due regard to any representations made by the Government in so far as effect can be given to such representations without detriment to the interests of the Authority.

Article 17* (16 bis) 9/

Principal office of the Enterprise

The Enterprise shall have its principal office at the seat of the Authority. 10/

Article 18* (17)

Legal status of the Enterprise

The Enterprise shall, within the framework of the international legal personality of the Authority, have such legal capacity as is necessary for the exercise of its functions and fulfilment of its purposes and, in particular, the capacity:

(a) To enter into contracts, joint arrangements or other arrangements, including agreements with States and international organizations;

(b) To acquire, lease, hold and dispose of immovable and movable property;

(c) To be a party to legal proceedings. 11/

Article 19* (17 bis)

Position of the Enterprise with regard to judicial process

1. Actions may be brought against the Enterprise in a court of competent jurisdiction in Jamaica. 12/

9/ The numbers in parentheses for articles 17-25 indicate the place of the article in document LOS/PCN/1989/CRP.33.

10/ Annex IV, article 8.

11/ Ibid., article 13 (2).

12/ Ibid., article 13 (3) (a).

2. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before the delivery of final judgement against the Enterprise. 13/

Article 20* (18)

Immunity of the property and assets of the Enterprise

1. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from requisition, confiscation, expropriation or any other form of seizure by executive or legislative action. 14/

2. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be free from discriminatory restrictions, regulations, controls and moratoria of any nature. 15/

Article 21* (18 bis)

Respect for laws of Jamaica by the Enterprise

The Enterprise shall respect the laws of Jamaica. 16/

Article 22* (19)

Rights, privileges and immunities of the Enterprise

1. The Government shall ensure that the Enterprise enjoys all rights, privileges and immunities accorded by it to entities conducting commercial activities in its territory. These rights, privileges and immunities shall be accorded to the Enterprise on no less favourable a basis than that on which they are accorded to entities engaged in similar commercial activities. If special privileges are provided by Jamaica for developing States or their commercial entities, the Enterprise shall enjoy those privileges on a similarly preferential basis. 17/

13/ Ibid., article 13 (3) (b).

14/ Ibid., article 13 (4) (a).

15/ Ibid., article 13 (4) (b).

16/ Ibid., article 13 (4) (c).

17/ Ibid., article 13 (4) (d).

2. The Government may provide special incentives, rights, privileges and immunities to the Enterprise without the obligation to provide such incentives, rights, privileges and immunities to other commercial entities. 18/

Article 23* (19 bis)

Exemption from direct and indirect taxation

The Government and the Enterprise shall enter into special agreements concerning the exemption of the Enterprise from direct and indirect taxation. 19/

Article 24* (19 ter)

Financial facilities for the Enterprise

1. The Enterprise shall have the power to borrow funds and to furnish such collateral or other security as it may determine. Before making a public sale of its obligations in the financial markets or currency of Jamaica, the Enterprise shall obtain the approval of the Government. 20/

2. Except as provided in paragraph 1, the Government shall not maintain or impose restrictions on the holding, use or exchange of the funds made available to the Enterprise. 21/

Article 25* (19 quater)

Waiver of immunity by the Enterprise

The Enterprise may waive any of the privileges and immunities conferred under articles 18, 19, 20, 21, 22 and 23 of this Agreement or in the special agreements provided for in article 51 to such extent and upon such conditions as it may determine. 22/

18/ Ibid., article 13 (4) (e).

19/ Ibid., article 13 (5).

20/ Ibid., article 11 (2) (a).

21/ Ibid., article 11 (3) (g).

22/ Ibid., article 13 (7).

Article 26* (20) 23/

Freedom of access and residence

1. The Government shall take all necessary measures to facilitate the entry into and residence in Jamaican territory and shall place no impediment in the way of the departure from Jamaican territory of the persons listed below; it shall ensure that no impediment is placed in the way of their transit to or from the Headquarters and shall afford them any necessary protection in transit:

(a) Representatives of States Parties and of observers of the Authority, including alternate representatives, advisers, experts and staff, as well as their spouses, dependent members of their families and domestic staff;

(b) Officials of the Authority, as well as their spouses, dependent members of their families and domestic staff;

(c) Officials of the United Nations or of any of its specialized agencies or the International Atomic Energy Agency, attached to the Authority and who have official business with the Authority, as well as their spouses, dependent members of their families and domestic staff;

(d) Representatives of other organizations with which the Authority has established official relations and who have official business with the Authority as well as their spouses and dependent members of their families;

(e) Persons on mission for the Authority but who are not officials of the Authority, as well as their spouses and dependent members of their families;

(f) Representatives of the press, radio, film, television or other information media, who have been accredited to the Authority at its discretion after consultation with the Government;

(g) All persons invited by the Authority to the Headquarters on official business. The Secretary-General shall communicate the names of such persons to the Government before their intended entry.

2. This article shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in article 9, paragraph 2, and shall not impair the effectiveness of generally applicable laws relating to the operations of means of transportation.

3. Visas, where required for persons referred to in paragraph 1, shall be granted without charge and as promptly as possible.

23/ The numbers in parentheses for the remainder of the articles indicate the place of the article in document LOS/PCN/WP.47/Rev.1.

4. No activity performed by any person referred to in paragraph 1 in his official capacity with respect to the Authority shall constitute a reason for preventing his entry into or his departure from the territory of Jamaica or for requiring him to leave such territory.

5. No person referred to in paragraph 1 shall be required by the Government to leave Jamaica save in the event of an abuse of the right of residence, in which case the following procedures shall apply:

(a) No proceeding shall be instituted to require any such person to leave Jamaica except with the prior approval of the Minister for Foreign Affairs of Jamaica;

(b) In the case of the representative of a State Party or observer State, such approval shall be given only after consultation with the Government of the State Party or observer State concerned;

(c) In the case of any other person mentioned in paragraph 1, such approval shall be given only after consultation with the Secretary-General, and if expulsion proceedings are taken against any such person, the Secretary-General shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and

(d) Officials of the Authority who are entitled to diplomatic privileges and immunities under article 34 shall not be required to leave Jamaica otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of diplomatic missions in Jamaica.

6. It is understood that persons referred to in paragraph 1 shall not be exempt from the reasonable application of quarantine and other health regulations.

7. This article shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this article come within the classes described in paragraph 1.

8. The Secretary-General and the competent authorities shall, at the request of either of them, consult as to methods of facilitating entry into Jamaica by persons coming from abroad who wish to visit the Headquarters and do not enjoy the privileges and immunities provided by articles 33, 34, 35 and 36.

Article 27* (21)

Establishment of missions

1. A State Party may establish a permanent mission and an observer State may establish a permanent observer mission in Jamaica for the purposes of the

representation of that State to the Authority. Such mission shall be accredited to the Authority. 24/

2. A State Party and an observer State shall notify the Secretary-General of their intention to establish a permanent mission or observer mission.

3. The Secretary-General shall notify the Government of the intention of a State Party or an observer State to establish a permanent mission or a permanent observer mission upon receipt of such notification.

4. The permanent mission or the permanent observer mission shall notify the Secretary-General of the names of the members of their missions, as well as the names of spouses and dependent members of their families.

5. The Secretary-General shall communicate to the Government a list of persons referred to in paragraph 4 and shall revise such list from time to time as may be necessary.

6. The Government shall provide the members of the permanent mission or the permanent observer mission and their spouses and dependent members of their families with an identity card certifying that they are enjoying the privileges, immunities and facilities specified in this Agreement. This card shall serve to identify the holder in relation to the competent authorities.

Article 28* (22)

Privileges and immunities of missions

The permanent mission or the permanent observer mission shall enjoy the same privileges and immunities as are accorded to a diplomatic mission in Jamaica.

24/ It was the view of the plenary that a reference to observer States in paragraph 1 should be further analysed in the light of the outcome of the consultations on the hard-core issue of "observers". While it seemed advisable to consider the possibility of the setting up of missions by the observers referred to in articles 156, paragraph 3, and 169 of the Convention, it was noted that some observers who would participate in the work of the Authority might not have the full range of interests that would justify the inclusion of a provision granting them the right to establish missions.

Article 29* (23)

Privileges and immunities of members of missions

Members of the permanent mission or of the permanent observer mission shall be entitled to the same privileges and immunities as the Government accords to the members, having comparable rank, of a diplomatic mission in Jamaica.

[Article 30 (34)]

[Premises]

[Deleted]

Article 30* (31)

Notification

1. The States Parties or the observer States shall notify the Authority of the appointment, position and title of the members of the permanent mission or of the observer mission, their arrival, final departure or the termination of their functions with the mission and any other changes affecting their status that occur in the course of their service with the mission.

2. The Authority shall provide the Government with the information referred to in paragraph 1.

Article 31* (32)

Assistance by the Authority in respect of privileges and immunities

1. The Authority shall, where necessary, assist the States Parties or the observer States, their permanent missions and the members of such missions in securing the enjoyment of the privileges and immunities provided for under this Agreement.

2. The Authority shall, where necessary, assist the Government in securing the discharge of the obligations of the States Parties and of the observer States, their missions and members of such missions in respect of the privileges and immunities provided for under this Agreement.

Article 32* (33)

Privileges and immunities of the representatives of States Parties and of observer States

1. Representatives of States Parties and observer States attending meetings convened by the Authority shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) Immunity in respect of words spoken or written and all acts done by them in their official capacity as representatives and immunity from legal process of every kind;

(c) Inviolability for all papers and documents;

(d) The right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) Exemption from immigration restrictions, alien registration and national service obligations in the State they are visiting or through which they are passing in the exercise of their functions for themselves;

(f) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(g) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;

(h) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic agents enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes; and also

(i) Enjoyment of the same protection and repatriation facilities as are accorded to members of diplomatic missions in Jamaica, in time of international crisis.

2. The facilities, privileges and immunities granted to the representatives of States Parties and observer States in paragraphs 1 (a), (e) and (i) shall extend to their spouses and dependent members of their families.

3. In order to secure, for the representatives of States Parties and observer States attending meetings convened by the Authority, complete freedom of speech and independence in the discharge of their duties, the immunity from

legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of States Parties or observer States.

4. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of States Parties or observer States attending meetings convened by the Authority are present in a State for the discharge of their duties shall not be considered as periods of residence.

5. Privileges and immunities are accorded to the representatives of States Parties and observer States, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Authority. Consequently a State Party or an observer State not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of that State the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

6. The provisions of paragraphs 1, 2, 3 and 4 are not applicable as between a representative and the authorities of the State Party or observer State of which he is a national or of which he is or has been the representative.

7. The Authority shall communicate to the Government in due time the names of the representatives referred to in this article.

Article 33* (34)

Privileges and immunities of the officials of the Authority

1. Without prejudice to article 34, the officials of the Authority, regardless of their nationality and rank, shall enjoy in Jamaican territory the following privileges and immunities:

(a) Immunity from legal process in respect of words spoken and written, and of acts performed by them in their official capacity; such immunity to continue notwithstanding that the persons concerned may have ceased to be officials of the Authority;

(b) Immunity from personal arrest or detention in relation to acts performed by them in their official capacity;

(c) Immunity from inspection and seizure of personal and official baggage, except in case of flagrante delicto. In such cases the competent authorities shall immediately inform the Secretary-General. Inspections shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the Secretary-General;

(d) Exemption from taxation in respect of salaries and emoluments paid or any other form of payment made by the Authority;

(e) Exemption from any form of taxation on income derived by them from sources outside Jamaica;

(f) Exemption from registration fees in respect of their automobiles;

(g) Exemption from immigration restrictions and alien registration procedures;

(h) Exemption from national service obligations, provided that, with respect to Jamaican nationals, such exemption shall be confined to officials of the Authority whose names have, by reason of their duties, been placed upon a list compiled by the Secretary-General and approved by the Government; provided further that, should officials of the Authority, other than those listed, who are Jamaican nationals be called up for national service, the Government shall, upon request of the Secretary-General, grant such temporary deferments in the call-up of such officials of the Authority as may be necessary to avoid interruption of the essential work of the Authority;

(i) The right to purchase petrol free of duty for their vehicles on similar terms as are accorded to members of diplomatic missions in Jamaica;

(j) Exemption for themselves for the purpose of official business from any restrictions on movements and travel inside Jamaica;

(k) In regard to foreign exchange, including holding accounts in foreign currencies, enjoyment of the same facilities as are accorded to members of diplomatic missions in Jamaica;

(l) Enjoyment of the same protection and repatriation facilities as are accorded to members of diplomatic missions in Jamaica, in time of international crisis;

(m) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports:

(i) Their furniture, household and personal effects, in one or more separate shipments, and thereafter to import necessary additions to the same;

(ii) In accordance with the relevant laws of Jamaica, one automobile, every three years, and in cases where the official is accompanied by dependants, a second automobile on the basis of representations to the Government by the Secretary-General; however, where the Secretary-General and the Government agree, in particular cases, replacement may take place at an earlier date in the event of loss, extensive damage or otherwise; automobiles may be sold in Jamaica after their importation, subject to the laws concerning the payment

of customs duties and established diplomatic practice in Jamaica during his or her assignment. After three years such automobiles can be sold without payment of customs duties;

(iii) Reasonable quantities of certain articles including liquor, tobacco, cigarettes and foodstuffs, for personal use or consumption and not for gift or sale. The Authority may establish a commissary for the sale of such articles to the officials of the Authority and members of delegations. A supplementary agreement shall be concluded between the Secretary-General and the Government to regulate the exercise of these rights.

2. The facilities, privileges and immunities granted to the officials of the Authority in paragraphs 1 (g), 1 (h), 1 (j) and 1 (l) shall extend to their spouses and to dependent family members.

Article 34* (35)

Additional privileges and immunities of the Secretary-General and other senior officials of the Authority

1. The Secretary-General and the Director-General shall be accorded the same privileges and immunities as are accorded to heads of diplomatic missions in Jamaica.

2. Officials of the Authority at the P-5 level and above, and such additional categories of officials of the Authority as may be designated in an agreement with the Government by the Secretary-General on the ground of the responsibilities of their positions in the Authority regardless of their nationality, shall enjoy the privileges and immunities as the Government accords to the members, having comparable rank, of a diplomatic mission in Jamaica.

Article 35* (36)

Application of the Agreement to officials of other international organizations

The provisions of articles 33, 34, paragraph 2, and 37 shall apply to the officials of the United Nations and of its specialized agencies and the International Atomic Energy Agency, attached to the Authority on a continuing basis.

Article 36* (37)

Privileges and immunities of experts

1. Experts, other than the officials of the Authority, while performing the functions assigned to them by the Authority or in the course of their travel to take up these functions or perform these duties, shall enjoy the following privileges, immunities and facilities that are necessary for the effective exercise of their duties:

(a) Immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity, such immunity to continue notwithstanding that the persons concerned may have ceased to exercise their functions with the Authority;

(b) Immunity from personal arrest or detention in relation to acts performed by them in their official capacity;

(c) Immunity from inspection and seizure of personal and official baggage, except in cases of flagrante delicto. In such cases the competent authorities shall immediately inform the Secretary-General. Inspections shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the Secretary-General;

(d) Exemption from taxation in respect of the salaries and emoluments paid or any other form of payment made by the Authority, provided that nationals of Jamaica may enjoy such exemptions as may be accorded by the Government;

(e) Inviolability of all papers, documents and other official material;

(f) The right, for the purpose of all communications with the Authority, to use codes and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags;

(g) Exemption from immigration restrictions, alien registration and national service obligations;

(h) Enjoyment of the same protection and repatriation facilities as are accorded to the members of diplomatic missions in Jamaica;

(i) The same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. The facilities, privileges and immunities granted to experts in paragraphs 1 (g) and (h) shall extend to their spouses and dependent family members.

Article 37* (38)

Waiver of immunity of the officials of the Authority and experts

Privileges and immunities are granted to the officials of the Authority and experts in the interests of the Authority and not for their own personal benefit. The Secretary-General shall have the right and duty to waive the immunity of any official of the Authority or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Authority. In the case of the Secretary-General, the Council shall have the right to waive the immunity.

Article 38* (39)

List of officials of the Authority and experts

The Secretary-General shall communicate to the Government a list of persons referred to in articles 33, 34, 35 and 36 and shall revise such list from time to time as may be necessary.

Article 39* (40)

Abuse of privilege or immunity

1. The Secretary-General shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur, and for this purpose the Council shall adopt rules and regulations as may be deemed necessary and expedient, for officials of the Authority.

2. Should the Government consider that an abuse of a privilege or immunity conferred by this Agreement has occurred, the Secretary-General shall, upon request, consult with the Government to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Secretary-General and to the Government, the matter shall be determined in accordance with the procedure set out in article 49.

[Article 41* (32)]

[Privileges and immunities of the members of the families]

[Deleted]

Article 40* (42)

Identity card

The Government shall provide the officials of the Authority and the experts with an identity card certifying that they are enjoying the privileges, immunities and facilities specified in this Agreement. This card shall also serve to identify the holder in relation to the competent authorities.

Article 41* (43)

Cooperation with the competent authorities

The Authority shall cooperate at all times with the competent authorities to facilitate the proper administration of justice, secure the observance of police regulations and avoid the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Agreement.

Article 42* (44)

Respect for the laws of Jamaica

Without prejudice to the privileges, immunities and facilities accorded by this Agreement, it is the duty of all persons enjoying such privileges, immunities and facilities to respect the laws of Jamaica. They also have the duty not to interfere in the internal affairs of Jamaica.

Article 43* (45)

Laissez-passer 25/

1. The Government shall recognize and accept laissez-passer issued to the officials of the Authority as a valid travel document equivalent to a passport.

2. The Government shall recognize and accept certificates issued to experts and other persons travelling on the business of the Authority. The Government agrees to issue any required visas based on such certificates.

3. Applications for visas from the holders of laissez-passer, when accompanied by a certificate that they are travelling on the business of the Authority, shall be dealt with as speedily as possible.

25/ It should be noted that the relationship between the Authority and the United Nations has not yet been considered.

4. Similar facilities to those specified in paragraph 3 shall be accorded to experts and other persons who, though not holders of laissez-passer, have a certificate that they are travelling on the business of the Authority.

Article 44* (46)

Social security and pension funds 26/

1. The (Joint) Staff Pension Fund shall enjoy legal capacity in Jamaica and shall enjoy the same exemptions, privileges and immunities as the Authority itself.

2. The Authority shall be exempt from all compulsory contributions to, and officials of the Authority shall not be required by the Government to participate in, any social security scheme of Jamaica.

3. The Government shall make such provision as may be necessary to enable any official of the Authority who is not afforded social security coverage by the Authority to participate, if the Authority so requests, in any social security scheme of Jamaica, to the extent that such scheme exists. The Authority shall, in so far as possible, arrange, under conditions to be agreed upon, for the participation in any Jamaican social security system, to the extent that such a system exists, of those locally recruited members of its staff who do not participate in the (Joint) Staff Pension Fund or to whom the Authority does not grant social security protection at least equivalent to that offered under the laws of Jamaica.

Article 45* (47)

Responsibility, liability and insurance

1. Jamaica shall not incur by reason of the location of the Headquarters within its territory any international responsibility for acts or omissions of the Authority or of its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which Jamaica would incur as a member of the Authority.

26/ The conditions for membership in the United Nations Joint Staff Pension Fund are set out in article 3 (c) of the Regulations and Rules of the United Nations Joint Staff Pension Fund which reads as follows: "Admission to membership in the Fund shall be by decision of the General Assembly, upon the affirmative recommendation of the Board, after acceptance by the organization concerned of these Regulations and agreement reached with the Board as to the conditions which shall govern its admission." It should be noted that the relationship between the Authority and the United Nations has not yet been considered.

2. Without prejudice to its immunities under this Agreement, the Authority shall carry insurance to cover liability for any injury or damage arising from activities of the Authority in Jamaica or from its use of the Headquarters that may be suffered by persons other than the officials of the Authority, or by the Government. To this end, the competent authorities shall make every reasonable effort to secure for the Authority, at reasonable rates, insurance coverage permitting claims to be submitted directly to the insurer by parties suffering injury or damage. Such claims and liability shall, without prejudice to the privileges and immunities of the Authority, be governed by the laws of Jamaica.

Article 46* (48)

Security

Without prejudice to the performance of its functions by the Authority in a normal and unrestricted manner, the Government may take every preventive measure to preserve the national security of Jamaica after consultation with the Secretary-General.

Article 47* (49)

Responsibility of the Government

Whenever this Agreement imposes obligations on the competent authorities, the ultimate responsibility for the fulfilment of such obligations shall rest with the Government.

[Article 50 (41)]

[Interpretation of the Agreement]

[Deleted]

Article 48* (51)

Special agreement relating to the Enterprise

The provisions of this Agreement relating to the Enterprise may be supplemented by a special agreement to be concluded between the Enterprise and the Government in accordance with Annex IV, article 13, paragraph 1, of the Convention.

Article 49* (52)

Settlement of disputes

1. The Authority shall make suitable provisions for the proper settlement of:

(a) Disputes arising out of contracts, or disputes of a private law character to which the Authority is a party;

(b) Disputes involving an official of the Authority or any person who by reason of his official position enjoys immunity, if such immunity has not been waived.

2. Any dispute between the Authority and the competent authorities concerning the interpretation or application of this Agreement or of any supplementary agreement, or any question affecting the Headquarters or the relationship between the Authority and the Government which is not settled by consultation, negotiation or other agreed mode of settlement within three months following such a request by one of the parties to the dispute, shall be referred, at the request of either party to the dispute, for a final and binding decision to a panel of three arbitrators: one to be nominated by the Secretary-General, one to be nominated by the Government. If either or both of the nominations are not made within three months following the request for arbitration, the President of the International Tribunal for the Law of the Sea shall proceed to make the appointment. The third arbitrator, who shall be the chairman of the panel, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the nomination or appointment of the first two arbitrators, such third arbitrator shall be chosen by the President of the International Tribunal for the Law of the Sea at the request of the Authority or the Government.

Article 50* (53)

Application of the Agreement

This Agreement shall apply irrespective of whether the Government maintains diplomatic relations with a State Party or an observer State. It shall be applied to all persons entitled to privileges and immunities under this Agreement, regardless of their nationality and irrespective of whether their State grants a similar privilege or immunity to diplomatic agents or nationals of Jamaica.

Article 51* (54)

Application of the Protocol

The Authority shall enjoy such other privileges and immunities as provided for in the Protocol.

/...

Article 52* (55)

Relationship between the Agreement and the Protocol

The provisions of this Agreement shall be complementary to the provisions of the Protocol. In so far as any provision of this Agreement and any provisions of the Protocol relate to the same subject-matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of conflict, the provisions of this Agreement shall prevail.

Article 53* (56)

Supplementary agreements

The Authority and the Government may enter into such supplementary agreements as may be necessary.

Article 54* (57)

Amendments

Consultations with respect to amendments to this Agreement shall be entered into at the request of either party, and such amendments shall be made by mutual consent.

Article 55* (58)

Termination of the Agreement

This Agreement shall cease to be in force by mutual consent of the Authority and the Government, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Authority at its Headquarters in Jamaica and the disposal of its property therein.

Article 56* (59)

Final provisions

This Agreement shall enter into force upon its signature.

DONE at _____ this _____ day of _____, in two original copies, in English.

/...

Annex

The area referred to in article 2, paragraph 2, of this Agreement consists of the land bounded by ...